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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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The meeting was called to order at 3.10 p.m.

Agenda item 109: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/57/134, 138, 140, 182, 205 and Add.1, 274, 275, 277, 283, 311 and Add.1, 323, 356, 357, 369, 371, 384, 385, 446, A/57/458-S/2002/1125 and A/57/484; A/C.3/57/7)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/57/230, 284, 290 and Corr.1, 292, 309, 325, 326, 345, 349, 366, and Add.1, 433 and 437; A/C.3/57/5)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/57/36 and 446)

1. **Ms. Kéita-Bocoum** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Burundi) said that her most recent visit to Burundi had taken place from 16 to 25 October, which had not allowed enough time to prepare a written report. She would therefore give some of her impressions and observations on the situation and make some preliminary recommendations.

2. The political, security and economic situations were closely linked to the evolution of the peace process in Burundi. The National Assembly and the Senate had been established and reform of the provincial administration carried out, in keeping with the Arusha Agreement on Peace and Reconciliation in Burundi, and the Government had submitted an evaluation of the first six months of transition to the Congress. However, political developments were being seriously compromised by the failure to reach a ceasefire. The political situation was being affected by the prevailing insecurity and had deteriorated considerably in recent weeks. Alleged massacres in several communes represented the worst manifestations of that renewed violence. Common crime was on the rise as well.

3. The economic situation was deteriorating, with a recent devaluation of the currency and an increase in fuel prices. Destruction of infrastructure, widespread corruption and frequent general strikes also took their toll. The funds pledged at the Paris and Geneva donor conferences in 2000 and 2001 had been disbursed only partially.

4. Turning to the human rights situation, she noted an increase in violations of the right to life against the civilian population since July 2002, often resulting from an increasingly violent and often disproportionate response by the army to attacks by armed groups. Over 300 civilians had reportedly been killed between July and October, most of them by agents of the State. Incidents had occurred in the provinces of Gitega and Bujumbura-rural, where victims included elderly men, pregnant women and young children.

5. With regard to the right to liberty and security of person, several provisions of the new Code of Criminal Procedure were regularly violated, including excessive pre-trial detention and illegal detention. Both the army and the armed groups had been accused of torture. Violence against women had increased, and the perpetrators were rarely punished.

6. As for the right to freedom of expression, the media faced limits on access to information, censorship and intimidation. The press was practically non-existent. Some political parties had complained that their freedom of expression had been limited by the transitional Government and their members had been subjected to intimidation and arrest. Labour leaders also complained that they had not been consulted regarding the new law on freedom of the press and that some striking union leaders had been imprisoned.

7. The number of internally displaced persons varied between 370,000 and 385,000, in over 200 camps. In addition, each month another 60,000 to 75,000 persons were displaced temporarily. The term "dispersed" was being used to describe individuals displaced by the conflict who were being housed not in the camps but with host families. According to government figures, some 40,000 people had been repatriated, with assistance from the Office of the High Commissioner for Refugees and national and international non-governmental organizations. Dozens of Congolese refugees had reportedly been expelled.

8. Although women were better represented in political structures, their situation had not really changed. Legislation to eliminate discrimination against women was still at the draft stage. The war and

the ensuing economic crisis had led to violations of all economic, social and cultural rights. Over 60 per cent of the people of Burundi lived below the poverty line, and few could pay for health care since the public hospitals had been made independent. Efforts were being made to combat HIV/AIDS, but the task was enormous. Many children had been forced to leave school during the 2001/02 school year from lack of funds and equipment.

9. The situation of the administration of justice had not changed, despite the hopes raised by the reforms. The Arusha Agreement had called for an independent commission to review the situation of prisoners, and that commission had submitted its report to the Government, but the national commission formed to carry out its recommendations had not yet had an impact. There was a growing climate of impunity, with little effort made to apprehend criminals and significant delays in responding to the findings of investigations. Prisons were severely overcrowded and there was only one prison specifically for women and minors. The Government human rights commission had encountered difficulties because of frequent staff changes and lack of resources. The Office of the High Commissioner for Human Rights had only two observers in Burundi.

10. During her recent visit, she had noted an increase in the number of civilian victims of human rights abuses. The Government had long advocated close cooperation among the army, the administration and the people, but recent army attacks on civilians had given rise to mistrust among the people, who no longer saw the army as protection. The Burundi peace process had a regional dimension, and the various peace agreements concluded in the region must be implemented in a coordinated manner. A ceasefire and a negotiated peace must be achieved as quickly as possible in order to save lives, and the "appropriate measures" to be taken against those rebel groups which refused to come to the negotiating table must be evaluated in order to determine their effectiveness. The reintegration of former combatants, including child soldiers and peace officers, remained a problem. The recruitment of peace officers as a civil defence force was still being encouraged, but there was no statute governing their actions, and some used their position to brutalize the civilian population. Many who had been repatriated had suffered violence and had once again fled the country; protection of refugees could be a major problem, given the nature of the conflict.

11. Turning to her recommendations, she appealed to all parties to the conflict to respect the rights of civilians, in particular the right to life, security and integrity of person, and to respect international humanitarian law by refraining from attacks on economic and social infrastructure. She called for an immediate cessation of hostilities and a return to the negotiating table.

12. She strongly condemned the army attacks on civilians, in particular the incidents at Itaba, Kanyosha and Rutegama. The Government must investigate and prosecute those responsible, with the involvement of the Office of the High Commissioner for Human Rights in Burundi, and make every effort to prevent violations and restore civilian confidence in the army. It must proceed with the establishment of the institutions called for under the Arusha Agreement and carry out the recommendations of the independent commission on matters relating to prisoners. Reform of the defence and security forces and the reintegration of demobilized combatants were imperative. She urged the Government to observe fully all the international human rights conventions to which it was party.

13. In closing, she welcomed the efforts to facilitate the peace process in Burundi and the progress in the subregion towards a ceasefire and the resumption of negotiations with armed groups. She supported the proposed international conference on the Great Lakes region called for by the Secretary-General and the Security Council. She called on the international community to deliver the funding promised at the Paris and Geneva conferences and to support the efforts of the Government of Burundi to promote human rights.

14. She recommended closer cooperation with the Office of the High Commissioner for Human Rights in Burundi in order to ensure better protection for returnees and displaced persons. The role of the Office would become increasingly important after the ceasefire, and its current level of resources, both human and financial, would not be sufficient for its new role. She therefore called on the international community to increase the resources devoted to observation, protection, promotion and training.

15. **Mr. Nteturuye** (Burundi) said that since 1993, human rights rapporteurs and observers had been describing the bitter reality of war in Burundi. He

wondered, however, whether any purpose was served in attempting to place blame for a war without any front lines, where the people were caught in the crossfire and sometimes used as shields.

16. Currently, the Government was willing to take responsibility for the violence and human rights violations its forces might have committed, but those committed by armed groups seemed to be of little interest to human rights defenders and went unpunished. It was not just in Burundi that civilians caught between armed groups sometimes lost their lives in combat zones; even United Nations peacekeepers had made such errors. He wondered why such realities could not be accepted and the efforts of the transitional Government acknowledged. The time had come to concentrate on helping Burundi to end the war as quickly as possible. The heads of State of the subregion, at their most recent summit, had recognized that some of the armed groups were attempting to delay the ceasefire negotiations, while others had refused outright to negotiate. A deadline had been set for those groups to rejoin the peace process before appropriate measures would be taken.

17. He wished to focus on certain issues the Special Rapporteur had raised. First, regarding the administration of justice, a reform of the justice system was under way in accordance with the Arusha Agreement, and a number of laws had already been adopted by the National Assembly.

18. While he recognized that the judicial process remained slow owing to a lack of resources, there had been some improvement, with 51 per cent of prisoners serving sentences and the remainder in pre-trial detention. There were currently about 120 child prisoners and while their detention conditions were not good, the judicial reforms under way should remedy that situation.

19. Although there were child soldiers in the armed forces, they were far more numerous in the ranks of the rebels, who conscripted them by force. In collaboration with the United Nations Children's Fund (UNICEF), the Government had established a project to demobilize child soldiers and a survey was under way to identify child soldiers with a view to their demobilization and reintegration. He called on the international community to exert pressure on rebel groups to also demobilize child soldiers. With regard to young police officers, he said they were supervised by the administration and were responsible for the security of their families and neighbourhoods. They had been guilty of some excesses which had been immediately punished by the authorities and he stressed that the police and military alone could not guarantee security everywhere. Each country faced with a civil war must organize its population to face that threat and, if necessary, take exceptional measures.

20. As to the massacres in Itaba, there had been an investigation by the Governmental Human Rights Commission and the Office of the High Commissioner for Human Rights, which had concluded that the rebels had promised the local population protection if they disobeyed the administration. After putting up a fierce resistance, the rebels had fled, leaving the civil population behind. During the fighting some residents who had been taken hostage had been killed. The officers in charge had been arrested and an investigation was under way. Any misconduct by the armed forces was punished.

21. Turning to the area of public freedoms, he said that freedom of association was fully respected, with a growing awareness on the part of civil society of the need to organize in order to contribute to building a better nation for all. Consultations were continuing to increase civil society's capacity to play an active role and a number of reforms were being considered: overhaul of the law governing associations; a law relating to the press; a bill on marriage to protect women's inheritance rights, a public information campaign on the Convention on the Elimination of All Forms of Discrimination against Women; a national gender policy and a plan of action incorporating gender issues developed by the Ministry for the Advancement of Women.

22. The human rights situation suffered as a result of the war. The right to education was affected by the large numbers of displaced and indigent families and the rebels destroyed school buildings and conscripted children by force. Furthermore it was impossible to ensure the right to health care and medicine. The human rights situation was undeniably deplorable and his Government recognized its responsibility to seek a political solution to the conflict, which was the root cause of that situation. Since 1998 every effort had been made to accelerate the negotiation of a ceasefire, without preconditions except that any ceasefire must occur within the framework of the Arusha Agreement.

23. A ceasefire was the key to implementation of many important provisions of the Peace Agreement, including reform of the army and the justice system. He noted that the three-year transition period was already nearing the end of its first part with very little progress having been made. There was increasing speculation about the future of the peace process, and he called on the international community to make a greater effort to prevail on the armed groups to negotiate a ceasefire in good faith and to provide urgently needed economic assistance to Burundi.

24. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, said that the European Union would like to ask the Special Rapporteur a number of questions in order to help it to assess the human rights situation in Burundi. Positive developments in the implementation of the peace process and the Arusha Agreement had been pointed out; it wished to know whether there were realistic hopes for sustained peace in the near future. The Government's ban on child soldiers was welcome, but implementation was uncertain and forcible enlistment was still occurring; it wished to know whether steps had been taken to enforce that ban. The Office of the United Nations High Commissioner for Refugees had reported that recent fighting had halted the repatriation of refugees, and that the flow of refugees to the United Republic of Tanzania was increasing; it wished to know the current situation of refugees and internally displaced persons.

25. **Ms. Kapalata** (United Republic of Tanzania) said she regretted that the Special Rapporteur's statement had not been available in English as well as in French. She took issue with the Special Rapporteur's reference to the porous border between Tanzania and Burundi as a contributing factor to the insecurity in the latter, and stressed that it was the responsibility of the Government of Burundi to ensure that the necessary conditions for peace existed within its territory. The Special Rapporteur should restrict herself to the situation in Burundi and refrain from singling out a neighbouring country which had in fact contributed greatly to the peace process.

26. **Ms. Kéita-Bocoum** (Special Rapporteur on the situation of human rights in Burundi), in response to the representative of Burundi, said that the figures she had quoted regarding the prison population had in fact been the official figures provided to her by the Ministry of Justice on 30 September 2002.

27. In response to the representative of Denmark, she said that she was optimistic that peace was possible if there was a ceasefire. Progress had been made in follow-up to the Arusha Agreement and the institutions established were functioning well. Yet fighting was continuing, and civilians were often caught in the crossfire between government forces and the insurgents, as during the fighting in the southern part of the country instigated by the Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD) despite its participation in the recent negotiations.

28. With regard to the use of child soldiers, she recognized that the Government had made 18 the minimum age for enrolment in the armed forces, but government sources had informed her that often the parents themselves exerted pressure to have younger children enrolled because it was seen as a mark of prestige, and that so long as the war continued, it would be difficult to demobilize child soldiers. She confirmed that many refugees who had previously returned to Burundi were fleeing once again to the United Republic of Tanzania because they were often the victims of discrimination, denial of property rights and violence, particularly in the eastern and southern parts of the country.

29. Turning to the statement made by the Tanzanian representative, she stressed that she was not blaming the United Republic of Tanzania for the situation along the border, merely stating the fact that it was difficult to control the frontier areas, owing in large part to a lack of resources, which aggravated the security problems in Burundi. That problem was not unique to the Burundi/Tanzania border. On visits to refugee camps in the United Republic of Tanzania early in 2002, she had been told that the camps were in fact quite well policed and that most movements across the border could be attributed to refugees and persons living outside the camps.

30. **Mr. Nteturuye** (Burundi) said that, despite recent negotiations and a ceasefire, rebel forces had intensified their attacks in the centre of the country, forcing the civilian population to flee in large numbers. With regard to refugees returning to the United Republic of Tanzania, he stressed that the rebel groups were opposed to repatriation of the refugees, who were subjected to propaganda in the camps and were followed into Burundi by rebel forces which provoked combat with the government forces, causing the

civilian population to flee. The rebels also started rumours of potential fighting in order to frighten the population into leaving. Nevertheless many refugees had returned to Burundi.

31. As for the Special Rapporteur's statement that much of the population were suspicious of the armed forces, he acknowledged that not all the population saw the armed forces as their protectors. While not able to guarantee security everywhere in the country, they nevertheless ensured protection for the civil population in most of the country, and the civilian population in fact followed the recommendations of the army and the administration when warned to leave areas of conflict.

32. **Ms. Kéita-Bocoum** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Burundi), referring to the massacre at Itaba, stressed that neither the Governmental Commission on Human Rights nor the Office of the High Commissioner for Human Rights had been able to play any role in the investigation. She herself in her visit to the area had been severely hindered by the army in her efforts to talk with the local population. It was for that reason that she had recommended that the United Nations should take an active part in the investigation in order to ascertain the facts and the true number of victims.

33. **Ms. Motoc** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo) said that her interim report (A/57/437) had been based on information gathered during her visit to the Democratic Republic of the Congo, on information from the Office of the High Commissioner and above all, on information from civil society in the country, which had struck her as showing great courage and placing a high value on human rights. She had decided to pay particular attention to gender issues and to the position of women in armed conflict.

34. As the interim report had explained, the human rights situation in the country remained critical, largely because of four years of fighting. In addition to the Pretoria Agreement between the Democratic Republic of the Congo and Rwanda, another, the Luanda Agreement between the Democratic Republic of the Congo and Uganda, had been signed in August 2002. Both agreements were being implemented, but during the troop withdrawal, the human rights situation and humanitarian conditions of the civilian population had worsened.

35. As the interim report had also pointed out, the protection of human rights had improved in the government-controlled part of the country, with the demobilization of child soldiers and the lifting of restrictions on non-governmental organizations and political parties. Other developments since the issuance of the interim report were the ratification of the Statute of the International Criminal Court, and — as a sign of the Government's commitment to cooperation with the International Criminal Tribunal for Rwanda — the arrest and transfer to Arusha of the suspected perpetrators of the Rwandan genocide. The ending of the moratorium on the death penalty had been a retrograde step, however.

36. Substantial violations of human rights and international humanitarian law had nevertheless continued, especially in the occupied parts of the country. They included the Kisangani massacre in May 2002, summary execution, torture, arbitrary detention, attacks on civilians and the use of rape as a means of warfare. The Secretary-General had reported on the situation of women in conflict, and Human Rights Watch had reported on sexual violence against women and girls. For cultural reasons, such incidents were underreported, and there was a high risk of HIV infection, with little treatment available. There were so many armed groups that identifying the perpetrators of attacks was difficult. However, their impunity should be ended by putting in place international truth-and-justice mechanisms for those and other crimes. During the fighting, it had been the country's women who had helped families to survive. They should not be left out of the inter-Congolese dialogue or the reconstruction effort.

37. The deteriorating safety situation and the use of force against civilians had displaced over two million people, mostly in the east, and had made humanitarian operations difficult. The safety situation had also caused the postponement once again of the joint mission with the Special Rapporteur on extrajudicial, summary or arbitrary executions. Another major cause of the war had been the plundering of the country's natural resources. The panel of experts appointed by the Security Council had recently reported on that matter.

38. It was to be hoped that the Democratic Republic of the Congo would emerge from war, and that the agreements concluded would be implemented. However, the withdrawal of troops and even the advent of peace would not automatically guarantee adherence to human rights. That would require the effort of all the parties involved and the support of the entire international community.

39. **Ms. Booto** (Democratic Republic of the Congo) said that the content of the present and past reports on the Democratic Republic of the Congo was a matter of concern. The interim report (A/57/437) just presented had been issued late, and showed all the signs of having been hastily drafted, doubtless because a report on the country had to be produced at all costs. It failed to point out the link between the human rights violations about which the Special Rapporteur had learned and the situation caused by armed attacks.

40. The previous Special Rapporteur had pinpointed the nature of the fighting: the armed attacks on the country by a coalition of armed forces from three of its neighbours. The current interim report had taken a backward step by speaking only of those forces' Congolese "lackeys", who had done nothing but follow orders. Not only was part of the country under occupation, but three million people had been killed and many others tortured, raped, deported or displaced. The country's natural resources had been plundered, and its ecosystem destroyed.

41. It was well known that the most blatant violations of human rights were committed in the parts of the Democratic Republic of the Congo that the Government did not control. The Security Council had recognized more than once the climate of terror in the east of the country, and the United Nations High Commissioner for Human Rights had reported on the massacre in Kisangani.

42. The Democratic Republic of the Congo attached great importance to adherence to all human rights. It should not be forgotten, however, that the democratization of its political life had been brutally interrupted by the armed attacks from outside, paradoxically supported by some of the country's own citizens. As a result, the Government's efforts to rebuild the country by focusing on roads, health and education had been slowed down when they could have helped to realize the economic, social and cultural rights of the Congolese people as well as their civil and political rights.

43. There was no democratization in the occupied east of the country, but the Special Rapporteur could not have failed to notice the progress in protecting human rights in government-controlled areas. The Government would ensure that progress continued. That had led to the demobilization of child soldiers, the suspension of restrictions on political parties and non-profit organizations and the signing of a number of agreements aimed at reviving the peace process. There had also been legislative changes since August 2002 in the form of new family and employment laws.

44. Like any other country, the Democratic Republic of the Congo was striving to protect the human rights of its citizens and of immigrants. Unlike some countries of the northern hemisphere, however, it was not setting itself up as an example. It would prefer to receive support rather than condemnation from the international community, because it wished fervently to work towards peace, reunification, territorial integrity and normal democratic life, so that it could take its place among the free and modern nations of the world.

45. **Ms. Motoc** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo), replying to the representative of the Democratic Republic of the Congo, said it was a well-known fact that the cause of the deplorable situation in that country was the aggression on the part of armed groups. She felt, however, the time had come to move towards peace rather than dwell on the past, with a view to seeking the truth and eliminating impunity for the crimes committed. She pointed out that her report had in fact made mention of many of the points raised by the representative of the Democratic Republic of the Congo, such as continuing violence in the eastern part of the country attributable to insurgents, the great progress made in areas under government control, the situation of child soldiers and violation of the rights of women and children.

46. In response to the representative of Uganda, she confirmed that she had only paid one visit to the Democratic Republic of the Congo and, while she had intended to visit the eastern part of the country during a second visit, she had been prevented from doing so by health problems. It was in any case impossible to visit all regions of such a vast country and she had therefore

relied not only on her personal observations but on information received from civil society. She recognized that some of the conflicts, such as that between the Bahema and the Balendu were of tribal origin but had been aggravated by the involvement of foreign forces.

47. **Mr. Acemah** (Uganda) said that he wished to respond to a number of issues raised in the interim report of the Special Rapporteur (A/57/437). With regard to paragraphs 3 and 4, he said that the report was clearly one-sided, largely as a result of hearsay and falsehoods. The Special Rapporteur had not consulted the Ugandan authorities on any of the issues appearing in it. If such consultations had taken place, she would have formed a more balanced picture of the situation.

48. With regard to paragraphs 11 and 34, the Security Council had recognized that the Mouvement de libération du Congo (MLC) and Rassemblement congolais pour la démocratie/Mouvement de libération (RCD/ML) were effectively responsible for administering the areas under their control, as indicated in the Lusaka Agreement and in paragraph 83 of the interim report itself. Confusion over Uganda's role should not be used as an excuse to provide misleading information.

49. With regard to paragraph 68, Uganda wished to point out that it had withdrawn from the Democratic Republic of the Congo in May 2002, leaving only one battalion in Bunia at the request of the Secretary-General and in accordance with the Luanda Agreement. It was committed to complete withdrawal, under the Lusaka and Luanda agreements.

50. The Special Rapporteur should recognize that the conflict between the Bahema and the Balendu had its roots in traditional enmity, and had been provoked by a land dispute, and that the Ugandan People's Defence Force (UPDF) was not responsible for the killings referred to in the interim report.

51. Paragraph 5 of the interim report indicated that the Special Rapporteur had not visited the east of the country. It was unprofessional and dishonest to extrapolate data from surveys of one region of a vast country to interpret a serious humanitarian situation in another region.

52. The interim report ignored Uganda's genuine security concerns. Its people had been the victim of attacks by terrorist groups including the former Rwandan Armed Forces (ex-FAR) and the Interahamwe. The Government of Uganda called for the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) to be strengthened in order to achieve speedy disarmament, demobilization, reintegration, repatriation and resettlement. It was committed to a lasting peace in the Great Lakes region.

53. **Ms. Priess** (Germany) said that her delegation considered the interim report of the Special Rapporteur to be exhaustive. It had underlined that a major cause of the war in the Democratic Republic of the Congo was economic, with many effects on human rights, especially in areas not controlled by the Kinshasa Government. The previous day, the Security Council had discussed the report of the expert panel on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo. Her delegation asked the Special Rapporteur to elaborate on how those circumstances had affected the enjoyment of economic, social and cultural rights, the human rights situation in general, and the situation of women in particular.

54. **Ms. Motoc** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo) said that, as her interim report and presentation had indicated, she believed that economic considerations were a deep underlying cause of the war. First, the country's rich natural resources provided a source of conflict; that in turn gave rise to violations of human rights and humanitarian law. Secondly, the plundering of natural resources violated the internationally recognized right of the people to sovereignty over those resources. Thirdly, the right to hold property was being violated. As prime victims of the conflict, women were also prime victims of violations of human rights.

The meeting rose at 4.40 p.m.